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UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF CALIFORNIA, FRESNO DIVISION

In re:

TULARE LOCAL HEALTHCARE DISTRICT
dba TULARE REGIONAL MEDICAL CENTER,

Debtor.

HEALTHCARE CONGLOMERATE
ASSOCIATES, LLC,

Plaintiff,

v.

TULARE LOCAL HEALTHCARE DISTRICT
dba TULARE REGIONAL MEDICAL CENTER,
and DOES 1 through 20,

Defendant.

AND RELATED COUNTER-CLAIM

Case No.: 17-13797-9-B

Chapter 9

ADV. PROC. NO.: 17-01095-B

DC No.: OHS-2

**HEALTHCARE CONGLOMERATE
ASSOCIATES, LLC’S MOTION TO
DISMISS COUNTERCLAIM
AGAINST HCCA OR IN THE
ALTERNATIVE TO STRIKE
PORTIONS THEREOF**

Date: March 12, 2018
Time: 10:30 a.m.
Dept: Courtroom 13
Judge: Hon. René Lastreto II

1 **PLEASE TAKE NOTICE THAT** on March 12, 2018, at 10:30 a.m., or as soon
2 thereafter as the matter may be heard, before the Honorable René Lastreto II of the above-entitled
3 Court located at 2500 Tulare Street, Fresno, California 93721, HealthCare Conglomerate
4 Associates, Inc., will and hereby does move the Court pursuant to Federal Rule of Civil
5 Procedure 12(b) and Federal Rule of Bankruptcy Procedure 7012(b) for an order dismissing the
6 Counterclaim Against HCCA filed by Tulare Local Healthcare District dba Tulare Regional
7 Medical Center (the “Counterclaim” filed by “TRMC”) on the grounds that the Court lacks
8 subject matter jurisdiction over the matter and that the Court is an improper venue for this
9 litigation. Fed. R. Civ. P. 12(b)(1), (3). HCCA also moves to individually dismiss the third,
10 fourth, fifth, sixth, seventh, eighth, and eleventh causes of action in the Counterclaim for failure
11 to state a claim upon which relief can be granted. Fed. R. Civ. P. 12(b)(6). Finally, HCCA
12 moves to strike certain portions of the Counterclaim that are insufficiently pleaded, impertinent,
13 immaterial, and scandalous, including:

- 14 • Page 2, line 28 through page 3, line 21 (paragraph 2);
- 15 • Page 6, approximately lines 19 through 21 (paragraph 11);
- 16 • Page 6, approximately line 23 through Page 7, line 2 (paragraph 12);
- 17 • Page 8, lines 4 through 8 (last sentence of paragraph 15);
- 18 • Page 8, line 27 through page 9, line 1 (last sentence of paragraph 17);
- 19 • Page 9, lines 8 through 11 (last sentence of paragraph 18);
- 20 • Page 9, lines 18-20 (last non-citation sentence of paragraph 19); and
- 21 • Page 10, lines 2 through 6 (last two sentences of paragraph 21).
- 22 • Page 12, line 25 through page 13, line 5 (portion of paragraph 35);
- 23 • Page 14, line 23 through page 15, line 6 (paragraph 50);
- 24 • Page 15, line 24 through page 16, line 4 (paragraph 58);
- 25 • Page 17, lines 16 through 24 (paragraph 70);
- 26 • Page 18, lines 14 through 18 (last two sentences of paragraph 77); and
- 27 • Page 20, lines 19 through 21 (paragraph 87d).

1 The Motion is based upon this Motion, the memorandum of points and authorities in
2 support hereof and filed herewith, all papers and pleadings on file in this case and this adversary
3 proceeding, and upon such other evidence and argument as the Court may consider at or before
4 the hearing on this Motion.

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6 Dated: January 29, 2018

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By: /s/ Marc A. Levinson
 Marc A. Levinson
 Attorneys for Plaintiff
 HealthCare Conglomerate Associates, LLC

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